

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE EVERGREEN ULTRA SHORT
OPPORTUNITIES FUND SECURITIES
LITIGATION

) No. 1:08-CV-11064-NMG
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EVERGREEN DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

REED SMITH LLP
George M. Linge, BBO #648199
Thomas L. Allen, *admitted pro hac vice*
Joseph P. Pohl III, *admitted pro hac vice*
Justin J. Kontul, *admitted pro hac vice*
225 Fifth Avenue, Suite 1200
Pittsburgh, PA 15222
Telephone: (412) 288-3131
Facsimile: (412) 288-3063

*Counsel for Evergreen Investment Management
Co. LLC, Evergreen Investment Services, Inc.,
Wachovia Corporation, Dennis H. Ferro and
Kasey Phillips*

Defendants Evergreen Investment Management Co. LLC, Evergreen Investment Services, Inc., Wachovia Corporation, Dennis H. Ferro, and Kasey Phillips (the “Evergreen Defendants”) hereby move, pursuant to Rule 56 of the Federal Rules of Civil Procedure, that partial summary judgment be entered in their favor, dismissing Plaintiffs’ claims under Sections 11 and 12(a)(2) of the Securities Act of 1933, 15 U.S.C. §§ 77k and 77l, insofar as they relate to allegations that the Evergreen Defendants violated Sections 11 and 12(a)(2) due to the Fund’s holding of securities with long-stated maturities. The Evergreen Defendants further request that partial summary judgment be entered in their favor dismissing Lead Plaintiffs’ Section 11 and 12(a)(2) claims based on: (i) the Fund’s holding of securities with long-stated maturities, and (ii) the failure to disclose the Fund’s spread duration, as time-barred for those class members who purchased Fund shares prior to June 24, 2007.

In support of this motion, the Evergreen Defendants refer the Court to the following documents being filed herewith:

1. Memorandum of Law in Support of Motion for Partial Summary Judgment;
2. LR 56.1 Concise Statement of Material Facts of Record; and
3. Transmittal Affidavit of George M. Linge.

WHEREFORE, the Evergreen Defendants respectfully request that partial summary judgment be entered in the Evergreen Defendants’ favor: (a) dismissing Lead Plaintiffs’ Section 11 and 12(a)(2) claims based on the Fund’s holding of securities with long-stated maturities; and (b) dismissing Lead Plaintiffs’ Section 11 and 12(a)(2) claims based on (i) the Fund’s holding of securities with long-stated maturities, and (ii) the failure to disclose the Fund’s spread duration, as time-barred for those class members who purchased Fund shares prior to June 24, 2007. The Evergreen Defendants also request such other and further relief as the Court deems just and

proper.

REQUEST FOR ORAL ARGUMENT

In accordance with Local Rule 7.1(d), the Evergreen Defendants request oral argument at a date and time to be set by this Court.

Respectfully submitted,

Dated: February 15, 2012

REED SMITH LLP

BY: s/ George M. Linge

George M. Linge, BBO #648199

Thomas L. Allen, *admitted pro hac vice*

Joseph P. Pohl III, *admitted pro hac vice*

Justin J. Kontul, *admitted pro hac vice*

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CERTIFICATE OF SERVICE

I hereby certify that this document filed on February 15, 2012 through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and by U.S. Mail to those identified non-registrants on the date of filing.

/s/ George M. Linge